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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESUS MARQUEZ, OLGA MARQUEZ,
RAMON MARQUEZ, JUANITA MARQUEZ,
TAQUERIA LOS PRIMOS, TAQUERIA LOS
PRIMOS NO. 2, LUIS GALINDO, MARTHA
GALINDO, BANK OF AMERICA, N.A., STATE
OF CALIFORNIA FRANCHISE TAX BOARD,
STATE OF CALIFORNIA EMPLOYMENT
DEVELOPMENT DEPARTMENT,
STATE OF CALIFORNIA BOARD OF
EQUALIZATION, STATE OF CALIFORNIA
DEPARTMENT OF LABOR, SAN MATEO
COUNTY TAX COLLECTOR,

Defendants.

No.

08

0891

COMPLAINT

Now comes the United States of America, by and through its undersigned counsel, and complains and alleges as follows:

COUNT I

JURISDICTION AND VENUE

1. This is a civil action brought by the United States to reduce to judgment outstanding federal tax assessments against defendants Jesus Marquez, Olga Marquez, Ramon Marquez, Juanita

1 Marquez, Taqueria Los Primos, a partnership, and its partners Jesus Marquez and Ramon Marquez,
2 and Taqueria Los Primos No. 2, a partnership, and its partners Jesus Marquez and Ramon Marquez,
3 and to foreclose federal tax liens upon real property.

4 2. This action is commenced pursuant to Sections 7401, 7402 and 7403(a) of the Internal
5 Revenue Code of 1986, at the direction of the Attorney General of the United States, with the
6 authorization and sanction, and at the request of the Chief Counsel of the Internal Revenue Service, a
7 delegate of the Secretary of the Treasury.

8 3. Jurisdiction over this action is conferred upon this Court by Title 28, United States
9 Code, Sections 1340 and 1345, and under Section 7402(a) of the Internal Revenue Code of 1986.

10 4. Venue is proper in the Northern District of California because defendants-taxpayers,
11 Jesus Marquez, Olga Marquez, Ramon Marquez, and Juanita Marquez reside in this judicial district,
12 Jesus and Ramon Marquez are the general partners of both partnerships (Taqueria Los Primos and
13 Taqueria Los Primos No. 2) and they reside in this judicial district, and the subject property is located
14 within this judicial district. 28 U.S.C., Sections 1391 and 1396.

15 COUNT II

16 IDENTIFICATION OF DEFENDANTS

17 5. Defendants Jesus Marquez and Olga Marquez currently reside at 791 South Johnston
18 Street, Half Moon Bay, California 94019, which is within the jurisdiction of this Court.

19 6. Defendants Ramon Marquez and Juanita Marquez currently reside at 791 South
20 Johnston Street, Half Moon Bay, California 94019, which is within the jurisdiction of this Court.

21 7. Defendant Taqueria Los Primos, a partnership, is currently located at 85 North B Street,
22 San Mateo, California 94401, which is within the jurisdiction of this Court.

23 8. Defendant Taqueria Los Primos No. 2, a partnership, is currently located at 376
24 Ellsworth Avenue, San Mateo, California 94401, which is within the jurisdiction of this Court.

25 9. The property which is the subject of this foreclosure suit is real property located at 791
26 South Johnston Street, Half Moon Bay, California 94019, and is described in the Official Records of
27 the Office of the County Recorder of San Mateo County as follows:
28

1 PARCEL ONE:

2 LOT Number Nine (9), as delineated upon that certain Map entitled "TRACT NO. 594,
3 CUNHAVILLE, SAN MATEO COUNTY, CALIFORNIA", filed for record in the Office of the
Recorder of the County of San Mateo, State of California, on March 1st, 1948 in Book 28 of
Maps, at Page 44.

4 PARCEL TWO:

5 Portion of Subdivisions 7 and 8, as delineated upon that certain Map entitled
"SPANISHTOWN SOUTH", filed for record in the Office of the Recorder of the County of
6 San Mateo, State of California, on December 19th, 1880 in Book "A" of Maps, at Page 1, and
copied into Book 1 of Maps at Page 61, more particularly described as follows:
7 BEGINNING at the Southeasterly corner of Lot 9 as shown on that certain Map entitled
"TRACT NO. 594, CUNHAVILLE, SAN MATEO COUNTY, CALIFORNIA", filed in the
8 Office of the County Recorder of San Mateo County on March 1, 1948 in Book 28 of Maps at
Page 44; running thence from said point of beginning, South 83° 36' 30" East 33 feet; thence
9 Northerly in a direct line to a point on the Southerly line of the lands conveyed to Joseph H.
Cunha, et al, by Deed recorded on November 1, 1955 in Book 2906 of Official Records at Page
10 232 (File No. 99682-M), Records of San Mateo County, California, distant thereon Easterly 33
feet from the Easterly line of Lot 8 as said Lot is shown on the above mentioned Map "TRACT
11 NO. 594, CUNHAVILLE, SAN MATEO COUNTY, CALIFORNIA"; running thence along
said Southerly line of the lands conveyed to Cunha (File No. 99682-M), Westerly 33 feet to
12 said Easterly line of Lot 8 of "TRACT NO. 594 CUNHAVILLE"; running thence along the
Easterly line of Lots 8 and 9 of said last mentioned subdivision, South 7° 33' 30" West 101.67
feet to the point of beginning.

13 A.P.N. 056-200-500

J.P.N. 056-020-200-50-A

14 10. Defendants Luis Galindo and Martha Galindo currently reside at 671 Spindrift Way,
15 Half Moon Bay, California 94109, and are made parties pursuant to 26 U.S.C. § 7403(b) in that they
16 may claim an interest in the property described in paragraph 9.

17 11. Defendant Bank of America, a Delaware corporation authorized to do business in
18 California, has designated its agent for service of process as CT Corporation System, 818 West
19 Seventh Street, Los Angeles, CA 90017, and is made a party pursuant to 26 U.S.C. § 7403(b) in that it
20 may claim an interest in the property described in paragraph 9.

21 12. Defendant State of California Franchise Tax Board is located at FTB Legal Branch,
22 Attn: Chief Counsel John Davies, 9646 Butterfield Way, Sacramento, CA 95827, and is made a party
23 pursuant to 26 U.S.C. § 7403(b) in that it may claim an interest in the property described in paragraph
24 9.

25 13. Defendant State of California Employment Development Department is located at Legal
26 Department, Attn: Legal, MIC 53, 800 Capital Mall, Sacramento, CA 95814, and is made a party
27 pursuant to 26 U.S.C. § 7403(b) in that it may claim an interest in the property described in paragraph
28 9.

14. Defendant State of California Board of Equalization is located at Attn: Executive Director Ramin Hirsig, 450 N St., MIC: 73, Sacramento, CA 94279, and is made a party pursuant to 26 U.S.C. § 7403(b) in that it may claim an interest in the property described in paragraph 9.

15. Defendant State of California Department of Labor is located at 455 Golden Gate Avenue, 9th Floor, Division of Labor Standards Enforcement, San Francisco, California 94102 and is made a party pursuant to 26 U.S.C. § 7403(b) in that it may claim an interest in the property described in paragraph 9.

16. Defendant San Mateo County Tax Collector is currently located at 555 County Center, Redwood City, California 94063, and is made a party pursuant to 26 U.S.C. § 7403(b) in that it may claim an interest in the property described in paragraph 9.

COUNT III

REDUCE TO JUDGMENT ASSESSMENTS AGAINST JESUS AND OLGA MARQUEZ

17. The United States realleges the allegations in paragraphs 1 through 16 above, as if fully set forth herein.

18. A delegate of the Secretary of the Treasury made assessments against defendants Jesus and Olga Marquez for unpaid federal income taxes (Form 1040), penalties, and interest for the years 1994, 1995, 1998, 1999, 2000, 2001, 2002, 2003, and 2004 as set forth below:

TAX PERIOD / TYPE OF TAX	DATE OF ASSESSMENT	BALANCE OF TAX INTEREST, FEES & PENALTIES AS OF 2/29/2008	RECORDING DATES OF TAX LIEN IN SAN MATEO COUNTY
12/31/1994 Form 1040	2/16/1998	\$ 10,799.99	8/21/2000, 9/5/2000
12/31/1995 Form 1040	2/16/1998	\$ 7,636.01	8/21/2000, 9/5/2000
12/31/1998 Form 1040	4/19/2004	\$ 20,196.05	2/7/2005, 2/14/2005
12/31/1999 Form 1040	9/6/2004	\$ 29,588.30	2/7/2005, 2/14/2005

12/31/2000 Form 1040	10/11/2004	\$ 30,840.51	2/7/2005, 2/14/2005
12/31/2001 Form 1040	8/30/2004	\$ 20,384.28	2/7/2005, 2/14/2005
12/31/2002 Form 1040	5/31/2004	\$ 11,532.76	2/7/2005, 2/14/2005
12/31/2003 Form 1040	5/9/2005	\$ 16,303.73	6/30/2005, 7/19/2005
12/31/2004 Form 1040	5/23/2005	\$ 6,772.30	6/30/2005, 7/19/2005

19. Despite timely notice and demand for payment of the assessments described in paragraph 18 above, defendants Jesus and Olga Marquez have neglected, failed, or refused to pay the assessments described in paragraph 18 above, and there remains due and owing on said assessments, as of February 29, 2008, the sum of \$154,053.93, including interest, and other statutory additions as provided by law, minus any credits.

COUNT IV

REDUCE TO JUDGMENT ASSESSMENTS AGAINST RAMON AND JUANITA MARQUEZ

20. The United States realleges the allegations in paragraphs 1 through 19 above, as if fully set forth herein.

21. A delegate of the Secretary of the Treasury made assessments against defendants Ramon and Juanita Marquez for unpaid federal income taxes (Form 1040), penalties, and interest for the years 1994, 1995, 1996, 1998, 1999, 2000, 2001, 2002, 2003 and 2004 as set forth below:

TAX PERIOD / TYPE OF TAX	DATE OF ASSESSMENT	BALANCE OF TAX INTEREST, FEES & PENALTIES AS OF 2/29/2008	RECORDING DATES OF TAX LIEN IN SAN MATEO COUNTY
12/31/1994 Form 1040	2/16/1998	\$ 12,184.26	4/26/2004
12/31/1995 Form 1040	2/16/1998	\$ 8,769.41	4/26/2004

12/31/1996 Form 1040	6/29/1998	\$ 152.83	4/26/2004
12/31/1998 Form 1040	7/12/2004	\$ 20,192.94	2/14/2005
12/31/1999 Form 1040	9/6/2004	\$ 30,835.60	2/14/2005
12/31/2000 Form 1040	9/6/2004	\$ 32,777.83	2/14/2005
12/31/2001 Form 1040	8/30/2004	\$ 21,307.63	2/14/2005
12/31/2002 Form 1040	2/21/2005	\$ 12,851.64	2/14/2005
12/31/2003 Form 1040	4/25/2005	\$ 17,985.19	7/19/2005
12/31/2004 Form 1040	5/23/2003	\$ 3,719.78	7/19/2005

22. Despite timely notice and demand for payment of the assessments described in paragraph 21 above, defendants Ramon and Juanita Marquez have neglected, failed, or refused to pay the assessments described in paragraph 21 above, and there remains due and owing on said assessments, as of February 29, 2008, the sum of \$160,777.08, including interest, and other statutory additions as provided by law, minus any credits.

COUNT V

REDUCE TO JUDGMENT ASSESSMENTS AGAINST TAQUERIA LOS PRIMOS

23. The United States realleges the allegations in paragraphs 1 through 22 above, as if fully set forth herein.

24. A delegate of the Secretary of the Treasury made assessments against defendant Taqueria Los Primos, a partnership, for the Section 6721 penalty, unpaid federal taxes (Forms 941, 1065, 940), interest, and penalties for the years 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004 and 2005 as set forth below:

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TAX PERIOD / TYPE OF TAX	DATE OF ASSESSMENT	BALANCE OF TAX INTEREST, FEES & PENALTIES AS OF 2/29/2008	RECORDING DATES OF TAX LIEN IN SAN MATEO COUNTY
12/31/1997	11/9/1998	\$ 4,051.68	5/5/2004, 11/6/2007
12/31/1998	5/13/2002	\$ 3,496.64	5/5/2004, 11/6/2007
9/30/1999	12/20/1999	\$ 1,942.68	5/5/2004, 11/6/2007
9/30/2002	3/21/2005	\$ 2,466.62	3/25/2005, 5/6/2005,
3/31/2003	2/28/2005	\$ 2,401.42	3/21/2005, 5/6/2005,
6/30/2003	2/28/2005	\$ 2,371.06	3/21/2005, 5/6/2005,
9/30/2003	3/21/2005	\$ 2,343.89	3/25/2005, 5/6/2005,
12/31/2003	8/30/2004	\$ 358.65	3/21/2005, 11/6/2007
3/31/2004	2/28/2005	\$ 4,218.28	3/21/2005, 5/6/2005,
6/30/2004	2/28/2005	\$ 2,852.31	3/21/2005, 5/6/2005,
9/30/2004	2/28/2005	\$ 2,973.55	3/21/2005, 5/6/2005,
12/31/2004	4/4/2005	\$ 2,888.35	5/6/2005, 11/6/2007
3/31/2005	6/27/2005	\$ 141.69	7/13/2005, 11/6/2007
6/30/2005	10/3/2005	\$ 146.35	1/10/2006, 11/6/2007
9/30/2005	1/2/2006	\$ 126.55	11/6/2007
12/31/2001	4/22/2002	\$ 24.35	5/5/2004

12/31/2002	4/21/2003	\$ 210.94	5/5/2004, 11/6/2007
12/31/2003	3/7/2005	\$ 314.42	3/21/2005, 5/6/2005,
12/31/2004	4/11/2005	\$ 402.09	5/6/2005, 11/6/2007
12/31/1998	12/3/2001	\$ 3,574.97	5/5/2004, 11/6/2007
12/31/1999	11/4/2002	\$ 4,214.89	5/5/2004, 11/6/2007
12/31/2000	11/17/2003	\$ 4,278.55	5/5/2004, 11/6/2007
12/31/2001	12/13/2004	\$ 4,092.96	5/6/2005, 11/6/2007
12/31/2003	3/21/2005	\$ 497.07	5/2/2005

25. Despite timely notice and demand for payment of the assessments described in paragraph 24 above, defendant Taqueria Los Primos and its partners Jesus Marquez and Ramon Marquez have neglected, failed, or refused to pay the assessments described in paragraph 24 above, and there remains due and owing on said assessments, as of February 29, 2008, the sum of \$50,389.96, including interest, and other statutory additions as provided by law, minus any credits.

COUNT III

REDUCE TO JUDGMENT ASSESSMENTS AGAINST TAQUERIA LOS PRIMOS NO. 2

26. The United States realleges the allegations in paragraphs 1 through 25 above, as if fully set forth herein.

27. A delegate of the Secretary of the Treasury made assessments against defendant Taqueria Los Primos No. 2, a partnership, for the Section 6721 penalty, unpaid federal taxes (Forms 941, 1065, 940), interest, and penalties for the years 1996, 1999, 2000, and 2001 as set forth below:

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TAX PERIOD / TYPE OF TAX	DATE OF ASSESSMENT	BALANCE OF TAX INTEREST, FEES & PENALTIES AS OF 2/29/2008	RECORDING DATES OF TAX LIEN IN SAN MATEO COUNTY
12/31/1996	5/13/2002	\$ 1,321.98	5/5/2004
12/31/1997	5/13/2002	\$ 2,909.59	5/5/2004
3/31/1998	6/22/1998	\$ 3,370.14	5/5/2004
12/31/1998	5/13/2002	\$ 229.50	5/5/2004
9/30/1999	12/27/1999	\$ 3,496.64	5/5/2004
3/31/2002	2/28/2005	\$ 1,942.34	3/25/2005
9/30/2002	3/21/2005	\$ 1,693.21	3/25/2005
3/31/2003	2/28/2005	\$ 52,891.37	3/25/2005
6/30/2003	2/28/2005	\$ 2,466.62	3/25/2005
9/30/2003	3/21/2005	\$ 2,401.42	3/25/2005
12/31/2003	8/30/2004	\$ 2,371.06	1/10/2006
3/31/2004	2/28/2005	\$ 2,343.89	3/25/2005
6/30/2004	2/28/2005	\$ 362.72	3/25/2005
9/30/2004	2/28/2005	\$ 2,317.27	3/25/2005
12/31/2004	4/4/2005	\$ 232.98	1/10/2006

12/31/1996	7/6/1998	\$ 1,419.55	5/5/2004
12/31/2003	5/2/2005	\$ 581.67	1/10/2006
Form 1065			
12/31/1998	4/29/2002	\$ 617.21	5/5/2004
Form 940			
12/31/2000	4/11/2005	\$ 100.08	1/10/2006
12/31/2001	4/22/2002,	\$ 85.70	5/5/2004
12/31/2002	4/14/2003	\$ 210.94	5/5/2004
12/31/2002	5/10/2004	\$ 1,237.20	5/5/2004
12/31/2003	3/7/2005	\$ 314.42	3/25/2005
12/31/2004	4/11/2005	\$ 274.48	1/10/2006
12/31/1997	11/6/2000	\$ 3,490.46	5/5/2004

28. Despite timely notice and demand for payment of the assessment described in paragraph 27 above, defendant Taqueria Los Primos No. 2, a partnership, and its partners Jesus Marquez and Ramon Marquez have neglected, failed, or refused to pay the assessments described in paragraph 27 above, and there remains due and owing on said assessments, as of February 29, 2008, the sum of \$88,682.44, including interest, and other statutory additions as provided by law, minus any credits.

COUNT VI

FORECLOSE FEDERAL TAX LIENS

29. The United States realleges the allegations in paragraphs 1 through 28 above, as if fully set forth herein.

30. Pursuant to 26, United States Code, Sections 6321 and 6322, liens arose in favor of the plaintiff, United States of America, upon all property and rights to property, whether real or personal,

1 belonging to defendants Jesus and Olga Marquez as of the date of the assessments described in
2 paragraph 18 or acquired thereafter.

3 31. A Delegate of the Secretary of the Treasury filed Federal Tax Liens against defendants
4 Jesus and Olga Marquez with the San Mateo Recorder's Office in San Mateo, California on the dates
5 described above in paragraph 18.

6 32. Pursuant to 26, United States Code, Sections 6321 and 6322, liens arose in favor of the
7 plaintiff, United States of America, upon all property and rights to property, whether real or personal,
8 belonging to defendants Ramon and Juanita Marquez as of the date of the assessments described in
9 paragraph 21 or acquired thereafter.

10 33. A Delegate of the Secretary of the Treasury filed Federal Tax Liens against defendants
11 Ramon and Juanita Marquez with the San Mateo Recorder's Office in San Mateo, California on the
12 dates described above in paragraph 21.

13 34. Pursuant to 26, United States Code, Sections 6321 and 6322, liens arose in favor of the
14 plaintiff, United States of America, upon all property and rights to property, whether real or personal,
15 belonging to defendant Taqueria Los Primos, a partnership, and its partners Jesus Marquez and Ramon
16 Marquez as of the date of the assessments described in paragraph 24 or acquired thereafter.

17 35. A Delegate of the Secretary of the Treasury filed Federal Tax Liens against defendant
18 Taqueria Los Primos, a partnership, and its partners Jesus Marquez and Ramon Marquez with the San
19 Mateo Recorder's Office in San Mateo, California on the dates described above in paragraph 24.

20 36. Pursuant to 26, United States Code, Sections 6321 and 6322, liens arose in favor of the
21 plaintiff, United States of America, upon all property and rights to property, whether real or personal,
22 belonging to defendant Taqueria Los Primos No. 2, a partnership, and its partners Jesus Marquez and
23 Ramon Marquez as of the date of the assessments described in paragraph 27 or acquired thereafter.

24 37. A Delegate of the Secretary of the Treasury filed Federal Tax Liens against defendant
25 Taqueria Los Primos No. 2, a partnership, and its partners Jesus Marquez and Ramon Marquez with
26 the San Mateo Recorder's Office in San Mateo, California on the dates described above in paragraph
27 27.

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1 38. The property described in paragraph 9 has at all pertinent times been property belonging
2 to Jesus Marquez, Olga Marquez, Ramon Marquez, and Juanita Marquez, for purposes of the tax lien
3 provisions of the Internal Revenue Code. Accordingly, the federal tax liens at issue attached to the
4 property when the liens arose, and the tax liens have continued, to the present and without interruption,
5 to attach to such property.

6 **WHEREFORE**, the plaintiff, United States of America, prays for the following relief:

7 1. That this Court determine and adjudge that Jesus and Olga Marquez are personally
8 liable to the United States for the sum of \$154,053.93, plus interest and statutory additions, as
9 provided by law, that have accrued, and continue to accrue, since February 29, 2008; and that a
10 judgment in that amount be entered against Jesus and Olga Marquez and in favor of the United States
11 of America;

12 2. That this Court determine and adjudge that Ramon and Juanita Marquez are personally
13 liable to the United States for the sum of \$160,777.08, plus interest and statutory additions, as
14 provided by law, that have accrued, and continue to accrue, since February 29, 2008; and that a
15 judgment in that amount be entered against Ramon and Juanita Marquez and in favor of the United
16 States of America;

17 3. That this Court determine and adjudge that Taqueria Los Primos and its partners Jesus
18 Marquez and Ramon Marquez are personally liable to the United States for the sum of \$50,389.96,
19 plus interest and statutory additions, as provided by law, that have accrued, and continue to accrue,
20 since February 29, 2008; and that a judgment in that amount be entered against Taqueria Los Primos
21 and and its partners Jesus Marquez and Ramon Marquez in favor of the United States of America;

22 4. That this Court determine and adjudge that Taqueria Los Primos No. 2 and its partners
23 Jesus Marquez and Ramon Marquez are personally liable to the United States for the sum of
24 \$88,682.44, plus interest and statutory additions, as provided by law, that have accrued, and continue
25 to accrue, since February 29, 2008; and that a judgment in that amount be entered against Taqueria Los
26 Primos No. 2 and its partners Jesus Marquez and Ramon Marquez and in favor of the United States of
27 America;

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1 5. That this Court determine and adjudge that the United States has liens for unpaid
2 federal taxes against the real property described in paragraph 9, which property is the subject of this
3 suit, for the sums stated above, plus interest and statutory additions, as provided by law, that have
4 accrued, and continue to accrue, since February 29, 2008;

5 6. That the tax liens of the United States be foreclosed, and that this Court order the sale
6 of the real property described in paragraph 9;

7 7. That, if the amounts distributed to the United States pursuant to the sale of the real
8 property are insufficient to satisfy fully the above-described tax liabilities, the United States have
9 judgment for the deficiencies against Jesus Marquez; Olga Marquez; Ramon Marquez; Juanita
10 Marquez; Taqueria Los Primos, a partnership, and its partners Jesus Marquez and Ramon Marquez;
11 and Taqueria Los Primos No. 2, a partnership and its partners Jesus Marquez and Ramon Marquez;

12 8. That the United States be granted its costs and attorneys' fees; and,

13 9. For such other and further relief as is just and proper.

14 Respectfully submitted,

15 JOSEPH P. RUSSONIELLO
16 United States Attorney

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18 THOMAS MOORE
19 Assistant United States Attorney
20 Tax Division